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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

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COMMISSIONERS

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KRISTIN K. MAYES, Chairman

GARY PIERCE

PAUL NEWMAN

SANDRA D. KENNEDY

BOB STUMP

AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF
ZAYO BANDWIDTH, LLC FOR APPROVAL OF
A CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE FACILITIES-BASED
LONG DISTANCE AND FACILITIES-BASED
LOCAL EXCHANGE TELECOMMUNICATIONS
SERVICES IN ARIZONA.

DOCKET NO. T-20694A-09-0379

PROCEDURAL ORDER**BY THE COMMISSION:**

On July 31, 2009, Zayo Bandwidth, LLC ("Zayo" or "Company") submitted to the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("CC&N") to provide facilities-based long distance and facilities-based local exchange telecommunications services in Arizona.

On November 30, 2009, Zayo filed an amended application.

On February 26, 2010, the Commission's Utilities Division staff ("Staff") filed a Staff Report recommending approval of Zayo's amended application, subject to certain conditions.

On March 3, 2010, Zayo filed a request for an expedited hearing.

Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern the preparation and conduct of this proceeding.

IT IS THEREFORE ORDERED that the **hearing** on the above-captioned application shall commence on **April 30, 2010, at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission's offices, 1200 West Washington Street, Room 100, Phoenix, Arizona 85007.

IT IS FURTHER ORDERED that Zayo **shall publish notice** of the application and the hearing date, as stated below, in a newspaper(s) of general circulation in every county in Arizona in which Zayo desires to provide service **by April 3, 2010.**

IN THE MATTER OF THE APPLICATION OF ZAYO BANDWIDTH, LLC
FOR APPROVAL OF A CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE FACILITIES-BASED LONG DISTANCE AND
FACILITIES-BASED LOCAL EXCHANGE TELECOMMUNICATIONS
SERVICES IN ARIZONA.
(DOCKET NO. T-20694A-09-0379)

On July 31, 2009, Zayo Bandwidth, LLC ("Zayo" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("CC&N") to provide facilities-based long distance and facilities-based local exchange telecommunications services in Arizona. Zayo's application also requests that its proposed services be classified as competitive. The Commission's Utilities Division ("Staff") has recommended approval of Zayo's application, subject to certain conditions. The Commission is not bound by the proposals made by Zayo, Staff, or any intervenors, and the Commission will issue a Decision following consideration of testimony and evidence presented at an evidentiary hearing. Copies of the application, Staff Report, and any written exceptions to the Staff Report filed by Zayo will be available at Zayo's offices [insert address] and on the internet via the Commission website (www.azcc.gov) using the e-docket function.

The Commission will hold a hearing on this matter beginning **April 30, 2010, at 10:00 a.m.**, at the Commission's offices, 1200 West Washington, Room 100, Phoenix, Arizona. Public comments will be taken on the first day of the hearing. Written public comments may be submitted via email (visit http://www.azcc.gov/divisions/utilities/forms/public_comment.pdf for instructions) or by mailing a letter referencing Docket No. T-20694A-09-0379 to: Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007. If you require assistance, you may contact the Consumer Services Section at 1-800-222-7000 or 602-542-4251.

The law provides for an open public hearing at which, under appropriate circumstances, interested parties may intervene. Any person or entity entitled by law to intervene and having a direct and substantial interest in the matter will be permitted to intervene. If you would like to intervene, you must file a written motion to intervene with the Commission, and you must send copies of the motion to Zayo or its counsel and to all parties of record in the case. Your motion to intervene must contain the following:

1. The name, address, and telephone number of the proposed intervenor and of any person upon whom service of documents is to be made if different from the intervenor;
2. A short statement of the proposed intervenor's interest in the proceeding (e.g., a customer of the Company, a shareholder of the Company, etc.); and
3. A statement certifying that a copy of the motion to intervene has been mailed to the Company or its counsel and to all parties of record in the case.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before April 13, 2010. The granting of intervention, among other things, entitles a party to present sworn evidence at the hearing and to cross examine other witnesses. However, failure to intervene will not preclude any interested person or entity from appearing at the hearing and making a statement on their own behalf. If representation by counsel is required by Rules 31 and 38 of the Rules of the Arizona Supreme Court,

1 intervention will be conditioned upon the intervenor obtaining counsel to represent
2 the intervenor.

3 The Commission does not discriminate on the basis of disability in admission to its
4 public meetings. Persons with a disability may request a reasonable
5 accommodation such as a sign language interpreter, as well as request this
6 document in an alternative format, by contacting the ADA Coordinator, Shaylin
7 Bernal, at SABernal@azcc.gov, voice phone number 602-542-3931. Requests
8 should be made as early as possible to allow time to arrange the accommodation.

9 IT IS FURTHER ORDERED that **Zayo shall file an Affidavit of Publication** with the
10 Commission **no later than April 20, 2010.**

11 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-
12 105, except that all motions to intervene shall be filed by **April 13, 2010.**

13 IT IS FURTHER ORDERED that any objections to intervention(s) shall be filed by **April 23,**
14 **2010.**

15 IT IS FURTHER ORDERED that Zayo or any intervenors shall file specific
16 disagreements/comments, if any, regarding the Staff Report by **April 13, 2010.**

17 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
18 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law in Arizona and
19 before the Commission and admission *pro hac vice*.

20 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
21 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
22 Rules of Arizona Supreme Court). Representation before the Commission includes appearance at all
23 hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled
24 for discussion, unless counsel has previously been granted permission to withdraw by the
25 Administrative Law Judge or the Commission.

26 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
27 Communications) applies to this proceeding and shall remain in effect until the Commission's
28 Decision in this matter is final and non-appealable.

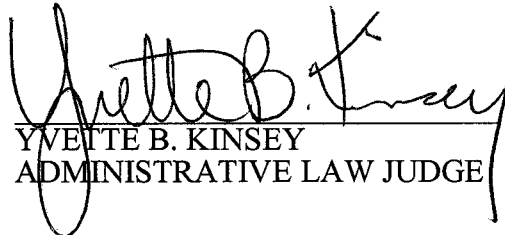
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1 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
2 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

3 DATED this 16th day of March, 2010.

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6 
7 YVETTE B. KINSEY
8 ADMINISTRATIVE LAW JUDGE

9 Copies of the foregoing mailed/delivered
10 this 16th day of March, 2010 to:


11 Brett P. Ferenchak
12 Jean L. Kiddoo
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24 By: 
25 Debra Broyles
26 Secretary to Yvette B. Kinsey
27
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